

**FLATHEAD COUNTY PLANNING AND ZONING OFFICE
ZONING MAP AMENDMENT REPORT (FZC-20-16)
DAVID DUNKIN & MARY ANN WILSON
JANUARY 27, 2021**

I. GENERAL INFORMATION

A. Project Description

This is a report to the Flathead County Planning Board and Board of Commissioners regarding a request by David Dunkin and Mary Ann Wilson, with technical assistance from Sands Surveying, Inc., for a zoning map amendment in the Rural Whitefish Zoning District. The proposed amendment would change the zoning of property currently zoned 'SAG-10 (Suburban Agricultural)' to 'R-2.5 (Rural Residential)'.

B. Application Personnel

1. Owner/Applicant

David Dunkin & Mary Ann Wilson
73 Locust Road
Winnetka, IL 60093-3752

2. Technical Representative

Sands Surveying, Inc.
2 Village Loop
Kalispell, MT 59901

C. Process Overview

Documents pertaining to the zoning map amendment are available for public inspection in the Flathead County Planning and Zoning Office located in the South Campus Building at 40 11th Street West in Kalispell.

1. Land Use Advisory Committee/Council

The property is not located within the jurisdiction of a Land Use Advisory Committee.

2. Planning Board

The Flathead County Planning Board will conduct a public hearing on the proposed zoning map amendment on February 10, 2021 at 6:00 P.M. in the Country Kitchen Building at the Flathead County Fairgrounds, located at 265 North Meridian Road in Kalispell, Montana. A recommendation from the Planning Board will be forwarded to the County Commissioners for their consideration.

3. Commission

The Commissioners will hold a public hearing on the proposed zoning map amendment on February 25, 2021 at 9:00 A.M. Prior to the Commissioner's public hearing, documents pertaining to the zoning map amendments will also be available for public inspection in the Office of the Board of Commissioners at 800 South Main Street in Kalispell.

II. PROPERTY CHARACTERISTICS

A. Subject Property Location and Legal Description

The subject property is located along Morrison Road in Whitefish, MT and totals 5.66 acres. The property can legally be described as follows:

Tract A of Certificate of Survey No. 14704 in the North Half of the Northeast Quarter of Section 20, Township 31 North, Range 21 West, P.M.M., Flathead County, Montana.

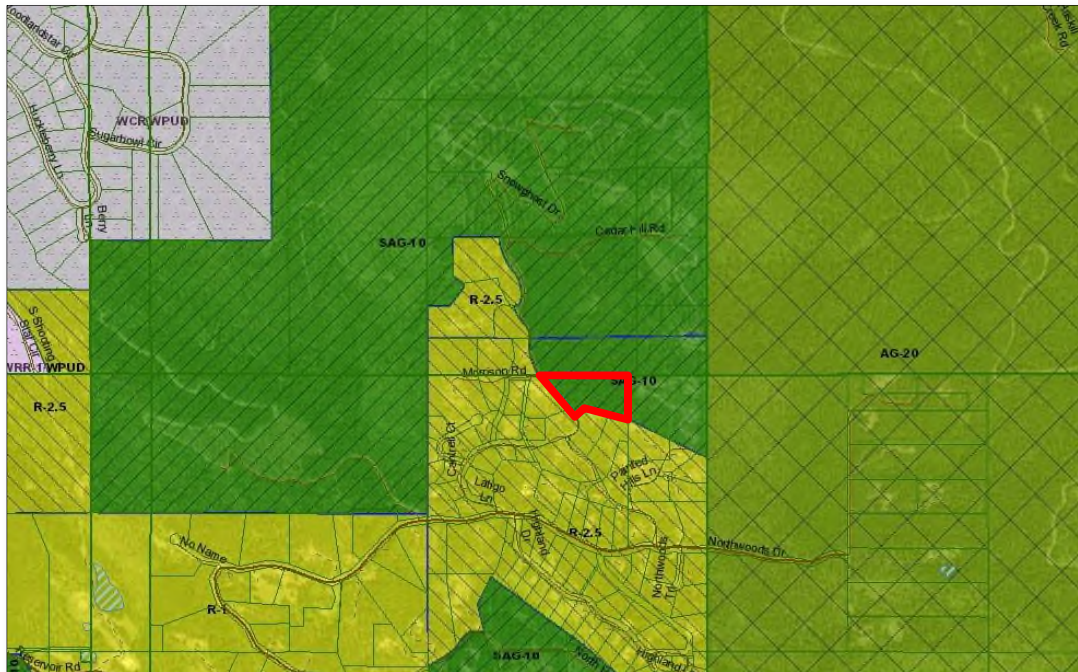
Figure 1: Subject property (outlined in yellow)



B. General Character of and Reason for Amendment

The subject property is located within the Rural Whitefish Zoning District and is currently zoned 'SAG-10 Suburban Agricultural'. The applicant has requested the zoning map amendment for the property to change the zoning designation to 'R-2.5 Rural Residential'. The property is currently undeveloped. The application indicates the reason for the zone change is to allow the property owner to split the property in the future. Surrounding properties are primarily developed as residential.

Figure 2: Current zoning on the subject property (outlined in red)



C. Adjacent Zoning and Character of the Overall Zoning District

The subject property is located within the Rural Whitefish Zoning District. The character of the zoning district in the vicinity of the subject property is residential, suburban agricultural, and agricultural zones. The property is located approximately a half-mile southeast of Whitefish city limits.

Adjacent properties to the north and east are similarly zoned SAG-10 and adjacent properties to the south and west are zoned R-2.5. Within a quarter mile of the property is R-1 and AG-20 zoning.

D. Public Services and Facilities

Sewer:	Individual Septic Systems
Water:	Individual Wells
Electricity:	Flathead Electric Cooperative
Natural Gas:	Northwestern Energy
Telephone:	CenturyTel
Schools:	Whitefish School District
Fire:	Whitefish Rural Fire District
Police:	Flathead County Sheriff's Office

III. COMMENTS

A. Agency Comments

1. An agency referrals letter was sent to the following agencies on November 20, 2020:
 - Bonneville Power Administration
 - City of Whitefish Planning Department
 - Flathead City-County Health Department
 - Flathead County Road and Bridge Department

- Flathead County Sheriff's Office
 - Flathead County Solid Waste District
 - Flathead County Superintendent of Schools
 - Flathead County Weeds & Parks Department
 - Montana Fish, Wildlife & Parks
 - Whitefish School District
 - Whitefish Rural Fire District
2. The following is a summarized list of agency comment received as of the date of the completion of this staff report:
- Bonneville Power Administration
 - Comment: "At this point in time, BPA does not object to this request, as the property is located 4.2 miles away from the nearest BPA transmission lines or structures." Email received November 23, 2020
 - Flathead City-County Health Department – Environmental Health Services
 - Comment: "Environmental Health offers no comment regarding this proposed zone change.
 - The proposed development is subject to review under the Sanitation in Subdivisions Act (MCA Title 76-4-1). The review will address potable water supply, wastewater treatment, storm water drainage, and solid waste disposal." Letter received November 27, 2020
 - Flathead County Road and Bridge Department
 - Comment: "At this point the County Road Department does not have any comments on this request." Letter received December 3, 2020
 - Flathead County Solid Waste District
 - Comment: "The District requests that all solid waste generated at the proposed location be hauled by a private licensed hauler. North Valley Refuse is the licensed (PSC) Public Service Commission licensed hauler in this area. Their business phone number is 406-862-4381." Letter received December 7, 2020

B. Public Comments

1. Adjacent property notification regarding the proposed zoning map amendment was mailed to property owners within 150 feet of the subject property on January 20, 2021. Legal notice of the Planning Board public hearing on this application was published in the January 24, 2021 edition of the Daily Interlake.

Public notice of the Board of County Commissioners public hearing regarding the zoning map amendment was physically posted on the subject property and within the zoning district according to statutory requirements found in Section 76-2-205 [M.C.A] on December 21, 2020. Notice will also be published once a week for two weeks prior to the public hearing in the legal section of the Daily Interlake. All methods of public notice include information on the general character of the proposed zoning map amendment, and the date, time, and location of the public hearing before the Flathead County Commissioners on the requested zoning map amendment.

2. Public Comments Received

As of the date of the completion of this staff report, four (4) public comments have been received regarding the requested zoning map amendment. Concerns addressed in the comments were primarily regarding an increase in density and the corresponding impacts on traffic, road maintenance, water supply, and wildlife habitat, and setting a precedent. It is anticipated any member of the public wishing to provide comment on the proposed zoning map amendment may do so at the Planning Board public hearing and/or the Commissioner's public hearing. Any written comments received following the completion of this report will be provided to members of the Planning Board and Board of Commissioners and summarized during the public hearing(s).

IV. EVALUATION OF PROPOSED AMENDMENT

Map amendments to zoning districts are processed in accordance with Section 2.08 of the Flathead County Zoning Regulations (FCZR). The criteria for reviewing zoning amendments are found in Section 2.08.040 of the Flathead County Zoning Regulations and 76-2-203 M.C.A.

A. Build Out Analysis

Once a specific zoning designation is applied in a certain area there are certain land uses that are permitted or conditionally permitted. A build-out analysis is performed to examine the maximum potential impacts of full build-out of those uses. The build-out analysis is typically done looking at maximum densities, permitted uses, and demands on public services and facilities. Build-out analyses are objective and are not best or worst case scenarios. Without a build-out analysis to establish a foundation of understanding, there is no way to estimate the meaning of the proposed change to neighbors, the environment, future demands for public services and facilities and any of the evaluation criteria, such as impact to transportation systems. Build-out analyses are simply establishing the meaning of the zoning map amendment to the future of the community to allow for the best possible review.

The SAG-10 Suburban Agricultural designation is defined in Section 3.07.010 FCZR as, *"A district to provide and preserve agricultural functions and to provide a buffer between urban and unlimited agricultural uses, encouraging separation of such uses in areas where potential conflict of uses will be minimized, and to provide areas of estate-type residential development"*

The R-2.5 Rural Residential designation is defined in Section 3.09.010 FCZR as, *"A district intended for rural, primarily residential areas where larger, estate-type lot sizes are appropriate and agricultural/silvicultural/horticultural operations are a decreasingly viable land use. The use of this district is appropriate in transition areas adjacent to and between higher-density Residential (R) and lower-density Suburban Agriculture (SAG) zones. This district is not appropriate in areas primarily surrounded by lower-density SAG and AG zones and/or areas adjacent to significant ongoing agricultural/silvicultural/horticultural and/or extractive industry operations. Furthermore, public facilities should be appropriately developed to accommodate the density and land uses of this designation. This includes paved roads. It is intended that no uses be permitted in this district that will tend to devalue property for residential purposes or interfere with the health, safety, order or general welfare of persons residing therein."*

The permitted uses and conditional uses for the SAG-10 and the R-2.5 zoning are similar. The amendment would reduce the number of permitted uses from 21 to 15 and would maintain the same number of conditional uses.

The permitted and conditional uses allowed in SAG-10 that are not allowed in R-2.5 are:

- Class B manufactured home
- Dairy products processing, bottling, and distribution
- Ranch employee housing
- Riding academy, rodeo arena
- Animal hospital, veterinary clinic
- Contractor's storage yard
- Extractive industry
- Kennel, commercial
- Recreational facility

The permitted uses allowed in SAG-10 that require a conditional use permit in R-2.5 are:

- Caretaker's facility
- Cellular communications tower
- Cluster housing/Dwellings, Cluster development
- Stable, public

The permitted and conditional uses allowed in R-2.5 that are not allowed in SAG-10 are:

- Radio and television broadcast station

The bulk and dimensional requirements within the current and proposed zoning require a 20 foot setback from front, side, side corner, and rear boundary line for principal structures and a setback of 20 feet for the front and side corner and 5 feet from the rear and side for detached accessory structures. A 20 foot setback is required from streams, rivers and unprotected lakes which do not serve as property boundaries and an additional 20 foot setback is required from county roads classified as collector or major/minor arterials for both the current and proposed zoning designations. The permitted lot coverage is 20% within SAG-10 and 25% within R-2.5. The maximum height is 35 feet for the principal structure and accessory structures in SAG-10. The maximum height is 35 feet for the principal structure and 18 feet for accessory structures that do not meet the principal structure setbacks in the R-2.5 zone.

The SAG-10 zone requires a minimum lot area of 10 acres. Since the subject property is 5.66 acres, no additional lots could be created. The R-2.5 zone requires a minimum lot area of 2.5 acres, therefore one additional lot could be created. The requested zone change has the potential to increase density through subsequent subdivision in the future.

B. Evaluation of Proposed Amendment Based on Statutory Criteria (76-2-203 M.C.A. and Section 2.08.040 Flathead County Zoning Regulations)

1. Whether the proposed map amendment is made in accordance with the Growth Policy/Neighborhood Plan.

The proposed zoning map amendment falls within the jurisdiction of the Flathead County Growth Policy, adopted on March 19, 2007 (Resolution #2015 A) and updated October 12, 2012 (Resolution #2015 R).

The Flathead County Growth Policy Designated Land Uses Map identifies the subject property as ‘Suburban Agricultural.’ The proposed ‘R-2.5 Rural Residential’ zoning classification would appear to contrast with the current designation. However, Chapter 10 Part 3: Land Uses Maps of the Growth Policy under the heading Designated Land Use Maps specifically states, “This map depicts areas of Flathead County that are legally designated for particular land uses. This is a map which depicts existing conditions. The areas include zoning districts which are lumped together by general use rather than each specific zone and neighborhood plans. Further information on particular land uses in these areas can be obtained by consulting the appropriate zoning regulations or neighborhood plan document. The uses depicted are consistent with the existing regulations and individual plan documents. This map may be changed from time to time to reflect additional zoning districts, changes in zoning districts, map changes and neighborhood plans as they are adopted. Since this map is for informational purposes, the Planning Staff may update the same to conform to changes without the necessity of a separate resolution changing this map.” Staff interprets this to mean the Designated Land Use Map is not a future land use map that implements policies, but rather a reflection of historic land use categories. If the zoning map amendment is approved the Designated Land Use Map can be updated by staff to reflect changes made by the County Commissioners based on goals and policies of the Growth Policy.

The introduction of Chapter 1 states, *‘High density residential development has the potential to change the character of a rural area and create safety and health hazards if not properly guided. Similarly, low density development in areas well suited for development can be an inefficient use of land resources.’*

As previously stated, the subject property is 5.6 acres and is located approximately half a mile from Whitefish city limits. Properties to the north and east are zoned SAG-10 and are primarily 10 acres in size or larger. Properties to the south and west of the subject property are zoned R-2.5 and are primarily 2.5 acres in size or smaller. A majority of the surrounding properties are utilized for single-family residential. It appears the proposed zoning map amendment would extend the existing R-2.5 zoning and would likely be a more efficient use of land than the existing SAG-10 zoning.

Part 4 of Chapter 2 the Growth Policy states, *‘It is clear that agriculture plays a vital role in both the economy and culture of Flathead County. The custom and culture of agriculture in Flathead County is one of the features that is contributing to rapid growth and development. Lands that have traditionally been used for agriculture are being converted increasingly to residential uses as residents seek rural living.’* The subject property is not currently being used for agriculture.

The introduction to Part 7 of Chapter 2 states, *‘The density of residential developments is an issue raised throughout the public involvement process [...] Residential development, including the subdivision of land, is not inherently problematic. However, residential development at a density that is not compatible with existing local services and neighborhood character is likely to be contentious.’* It goes on to say that, *‘Capacity is based on the size and quality of the road, and once the capacity is exceeded, public safety suffers. Low density residential land uses on low capacity roads*

are a match, but medium or high density land uses on low capacity roads create problems.'

Part 7 of Chapter 2 also states, *'Appropriate densities can be dictated by the land itself. Areas with shallow groundwater or limited access to groundwater are more suited to low density residential land uses. High density residential land uses should be avoided in areas of steep slopes due to the risk of rockslides, mudslides, severe erosion, earthquakes, and avalanches. Although it is easy for a community to gradually forget about the devastating impacts of floods, floodplains with less than a 1% chance of flooding each year (areas between the 100 and 500-year floodplain) are still sure to flood again.'*

The subject property is located on Morrison Road, a gravel, two-lane, privately-maintained road, which appears capable of supporting the capacity of one additional residential lot. The property contains slopes, however, R-2.5 zoning is generally not considered high density. The property is not located in the floodplain.

The following is a consideration of goals and policies which appear to be applicable to the proposed zone change:

- ❖ **G.2** – *Preserve the rights of property owners to the use, enjoyment and value of their property and protect the same rights for all property owners.*
 - The amendment would allow the owner to subdivide but would also allow for many of the same uses that currently existing on surrounding properties.
- ❖ **G.8** – *Safe, healthy residential land use densities that preserve the character of Flathead County, protect the rights of landowners to develop land, protect the health, safety, and welfare of neighbors and efficiently provide local services.*
 - The R-2.5 designation would allow for densities of one dwelling unit per 2.5 acres which would likely not require public services because 2.5 acres lots can be serviced by septic systems and wells.
- **P.8.2** – *Identify required criteria for various densities that support the seven elements of the public's vision outlined in Chapter 1. The Seven Elements of the Public's Vision include:*
 - **Protect the Views**
The vision states, *'One characteristic that residents of Flathead County cherish is the view. Views of mountains, lakes, forests, wildlife, and open spaces are cited as characteristics residents of Flathead County would not change. "Scenic resources" are valued throughout the county regardless of age, gender or location.'* The proposed zone change would likely have minimal impact on views because it is located near similarly zoned properties with similar densities, and the R-2.5 zoning is not considered high density.
 - **Promote a Diverse Economy**
The vision states, *'The cost of living and home ownership should be affordable to the median income.'* The proposed zone change would allow for one additional lot to be created through future subdivision, and the R-2.5 zone would continue to allow for single-family dwellings and accessory dwelling

units (ADU), which could increase the housing supply and make homeownership more affordable.

- *Manage Transportation*

Vision 3 discusses managing traffic flow through land development patterns; this report contains discussion regarding the proposals impacts on traffic below.

- *Maintain the Identity of Rural Communities*

The vision states, *‘Preventing communities from growing together and losing their unique identities was another concern of many scoping meeting participants. The concern of seeing Flathead County turn into one continuous sprawling development was expressed in a variety of ways. Many residents of Flathead County do not want to see strip malls, used car lots, mini storage, warehouse stores, lumber yards, and other visually dominating land uses disrupt the perception of driving between unique rural communities.’* The subject property is located approximately a half-mile from the City of Whitefish and over six miles from other communities. The R-2.5 zone would not allow for any commercial development.

- *Protect Access to and Interaction with Parks and Recreation*

This report contains a discussion on parks and recreation below.

- *Properly Manage and Protect the Natural and Human Environment*

The vision states, *‘Air and water quality were mentioned frequently as well as co-habitation of people and wildlife being qualities that make Flathead County unique and desirable. Many residents expressed a desire to protect the lakes, rivers, ponds, groundwater and air for future generations.’* The property does not contain any surface waters or groundwater, and the slight increase in residential density is likely to have a minimum impact on air quality.

- *Preserve the Rights of Private Property Owners*

As previously stated, the amendment would allow the owner to subdivide the property, but would also allow for many of the same uses that currently existing on surrounding properties.

- ❖ **G.15** – *Promote a diverse demographic of residents.*

- **P.15.1** – *Encourage housing, employment, education and recreation to attract, support and maintain young families.*

- The proposed zone would allow for single-family dwellings, manufactured homes, and accessory dwelling units as permitted uses, all of which has the potential to make housing more affordable for young families.

- ❖ **G.16** – *Safe housing that is available, accessible, and affordable for all sectors of the population.*

- ❖ **G.23** – *Maintain safe and efficient traffic flow and mobility on county roadways.*

- **P.23.2** – *Limit private driveways from directly accessing arterials and collector roads to safe separation distances.*

- The subject property is currently accessed from Morrison Road, which is a private, local road. Due to the configuration of the property, future lots would

likely be accessed from Morrison Road. No private driveway would directly access an arterial or collector road.

- ❖ **G.31** – *Growth that does not place unreasonable burden on the school district to provide quality education.*
 - This report contains discussion on the proposal’s potential burden on schools below.
- ❖ **G.32** – *Maintain consistently high level of fire, ambulance and emergency 911 response services in Flathead County as growth occurs.*
- ❖ **G.33** – *Maintain a consistently high level of law enforcement services in Flathead County as growth occurs.*
 - This report contains discussion on the adequacy of emergency service below.
- ❖ **G.41** – *Promote the preservation of critical fish and wildlife habitat and preserve the area’s unique outdoor amenities and quality of life.*
 - **P.41.2** – *Discourage unmitigated development in areas identified as critical wildlife habitat.*
 - Given the properties close proximity to the City of Whitefish and the fact the neighboring properties are already used for residential purposes, impacts on wildlife would likely be minimal.

Finding #1: The proposed zoning map amendment generally complies with the Flathead County Growth Policy because, although the Designated Land Uses Map identifies the subject property as Suburban Agricultural, the R-2.5 zone would allow for single-family dwellings, manufactured homes, and accessory dwelling units which has the potential to increase affordable housing options, the property is located east of the City of Whitefish and adjacent to existing R-2.5 zoning, the property does not contain surface waters or floodplain, and impacts on wildlife would likely be minimal since surrounding properties are currently used for residential purposes.

2. Whether the proposed map amendment is designed to:

a. Secure safety from fire and other dangers;

The subject property is located within the Whitefish Rural Fire District and the nearest fire station is located approximately 5.2 driving miles southwest of the property. The Whitefish Fire Department would respond in the event of a fire or medical emergency. The property is located within the Wildland Urban Interface (WUI) but is not located within a fire district priority area. The property is mostly forested. According to the Flathead County Growth Policy, “The WUI is commonly described as the zone where structures and other human development meet and intermingle with undeveloped forests. This WUI zone is comprised of private and public lands and can pose risks to life, property, and infrastructure in associated communities if not mitigated.” The Whitefish Rural Fire District did not provide comment on this proposal. Future subdivision would require a Fire Prevention, Control and Fuels Reduction Plan that is approved by the local fire district and statements on the face of the final plat regarding the WUI, building materials, fire defensible space, and address signs.

Primary access to the property is off Morrison Road, which is a gravel, two-lane, privately-maintained road within a 60 foot wide easement. The road appears adequate to provide access for emergency vehicles.

According to FEMA FIRM Panel 30029C1085G, the property is located within an unshaded Zone X which is an area determined to be outside the 0.2% annual chance flood hazard.

Finding #2: The proposed zoning map amendment would secure safety from fire and other dangers because the property is located approximately 5.2 miles from the nearest fire station, fire hazards resulting from the property's location in the WUI could be mitigated if the property is further subdivided, the property is accessed from Morrison Road which can accommodate emergency vehicles, and the property is not located within the Special Flood Hazard Area.

b. Promote public health, public safety, and general welfare;

The subject property is located within the Whitefish Rural Fire District and the nearest fire station is located approximately 5.2 driving miles southwest of the property. The Whitefish Fire Department would respond in the event of a fire or medical emergency and the Flathead County Sheriff's Office provides police services to the property.

The permitted uses and conditional uses for SAG-10 and R-2.5 zoning are similar, although the R-2.5 zone is slightly more restrictive with regard to permitted and conditional uses. The amendment would reduce the number of permitted uses from 21 to 15 and maintain the same number of conditional use. Since the uses within the existing and proposed zones are similar, the proposal is not anticipated to negatively impact public health, public safety, and general welfare.

Finding #3: The proposed zoning amendment would not have a negative impact on public health, safety and general welfare because the property is served by the Whitefish Fire Department and the Flathead County Sheriff's Office and future development would be similar or compatible to uses already existing in the area.

c. Facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements.

Primary access to the property is currently via Morrison Road, which is a gravel, two-lane, privately-maintained road within a 60 foot easement. Since Morrison Road is a private road, no traffic counts are available. According to the Institute of Transportation Engineers (ITE) Trip Generation Manual, single-family dwellings typically generate approximately 10 average daily trips (ADT). The requested zone change has the potential to create one additional lot through future subdivision of the property, which would likely generate an additional 10 ADT. Staff calculated an estimated existing traffic count of 90 ADT, based on the nine properties currently developed with single-family dwellings that have direct access via Morrison Road. Using these estimates, the addition of 10 vehicle trips would increase traffic by approximately 11%. The Flathead County Road Department did not have comments on this request.

The subject property is currently undeveloped. The property owner would be required to undergo review and approval from the Flathead City-County Health Department and potentially the Montana Department of Environmental Quality to install water supply and wastewater treatment systems. The Flathead City-County Health Department had no comment regarding the proposed zone change.

The subject property is located within the Whitefish School District. The proposal has the potential to create one additional lot through future subdivision of the property and therefore would generate minimal school age children. The school district did not provide comment regarding this proposal. It is anticipated that schools would have capacity should any residential growth occur as a result of the proposed zoning map amendment.

The zoning map amendment would reduce the minimum lot size from 10 acres to 2.5 acres. It is anticipated parkland dedication or cash-in-lieu would be required if the property is subdivided in the future. There are numerous parks, natural areas, and recreational opportunities in the vicinity of the subject property.

Finding #4: The proposed zoning map amendment would facilitate the adequate provision of transportation because access to the subject property currently exists via Morrison Road and the proposal has the potential to generate an additional 10 average daily trips through future subdivision of the property.

Finding #5: The proposed zoning map amendment would facilitate the adequate provision of water and sewer services, schools and parks because future subdivision of the property would require review through the Flathead City-County Health Department and the Montana Department of Environmental Quality, the proposal would generate minimal school age children, parkland dedication would be considered during subdivision review, and there are numerous parks, natural areas, and recreational opportunities in the vicinity of the subject property.

3. In evaluating the proposed map amendment, consideration shall be given to:

a. The reasonable provision of adequate light and air;

Any additional lots created or structures built would be required to meet the bulk and dimensional requirements of the R-2.5 zoning designation. The bulk and dimensional requirements have been established to provide for a reasonable provision of light and air.

The minimum lot area within the existing SAG-10 zone is 10 acres and the minimum lot area within the proposed R-2.5 zone is 2.5 acres. The density allowed within the proposed zone would be greater than the density allowed within the current zone. The maximum building height within the existing SAG-10 zone is 35 feet for both a principal and accessory structure and the maximum building height within the proposed R-2.5 zone is 35 feet for a principal structure and 18 feet for an accessory structure. The permitted lot coverage is 20% in the SAG-10 zone and 25% in the proposed R-2.5 zone.

The setback requirements are the same in the proposed R-2.5 zone as the existing zoning. The required setbacks are 20 feet from front, side, side corner, and rear boundary lines for principal structures and 20 feet from front and side corner and 5

feet from the rear and side boundary lines for detached accessory structures. A 20 foot setback is required from streams, rivers and unprotected lakes which do not serve as property boundaries and an additional 20 foot setback is required from county roads classified as collector and arterials.

Finding #6: The proposed zoning map amendment would provide adequate light and air to the subject property because future development would be required to meet the bulk and dimensional requirements of the R-2.5 designation.

b. The effect on motorized and non-motorized transportation systems;

As previously stated, primary access to the property is currently via Morrison Road, which is a gravel, two-lane, privately-maintained road within a 60 foot easement. Since Morrison Road is a private road, no traffic counts are available. According to the Institute of Transportation Engineers (ITE) Trip Generation Manual, single-family dwellings typically generate approximately 10 average daily trips (ADT). The requested zone change has the potential to create one additional lot through future subdivision of the property, which would likely generate an additional 10 ADT. Staff calculated an estimated existing traffic count of 90 ADT, based on the nine properties currently developed with single-family dwellings that have direct access via Morrison Road. Using these estimates, the addition of 10 vehicle trips would increase traffic by approximately 11%. The Flathead County Road Department did not have comments on this proposal.

There are no existing bike or pedestrian facilities currently located along Morrison Road and the Flathead County Trails Plan does not designate the road for future bike or pedestrian trails.

Finding #7: The proposed zoning map amendment would have a minimal impact on motorized and non-motorized transportation systems because Morrison Road provides legal and physical access to the subject property, the proposal has the potential to generate an additional 10 average daily trips through future subdivision, the Flathead County Road Department had no comment regarding the proposal, and the change will not have an impact on bicycle and pedestrian trails in the County.

c. Compatible urban growth in the vicinity of cities and towns (that at a minimum must include the areas around municipalities);

The City of Whitefish is located approximately a half-mile to the northwest of the subject property. The property is located within the boundary of the Whitefish Growth Policy and is indicated on the Whitefish City-County Growth Policy Future Land Use Map.

The Whitefish Growth Policy Future Land Use Map designates the property as 'Rural', which is defined as, "*Open lands with decidedly rural character, including farmlands, pasture lands, timber harvesting and management areas, and forest lands generally fall under this designation. Agricultural and timber management are generally allowed, but residential densities are extremely low. This designation includes 'important farmlands' as defined by National Resources Conservation Service criteria. Zoning is mainly WA-10 and WA- 20.*" The plan designates properties immediately to the south and west of the subject property as 'Rural Residential', which is defined as, "*The rural residential designation is intended*

primarily for areas that are already divided into lots of 2 ½ to 10 acres in size. Its intent is to preserve rural character while allowing existing large-lot residential areas to continue without becoming non-conforming as to minimum lot size. Applicable zoning districts include WCR and WA-10. Rural residential is not seen as a desirable future development option, and this Growth Policy does not advocate designating additional areas for rural residential beyond what is already depicted on the Future Land Use Map.” Although the subject property is designated as Rural, the lot is less than 10 acres in size and is not located directly adjacent to open lands with agricultural or silvicultural uses. The proposed R-2.5 zoning appears to be more compatible with the Rural Residential land use designation because the property is currently between 2.5 to 10 acres in size and is primarily surrounded by smaller residential properties. Thus, the extension of the Rural Residential designation may be appropriate given the current size of the property and the surrounding zoning. The City of Whitefish Planning Department did not provide comment on this proposal.

Finding #8: The proposed zoning map amendment appears to be partially compatible with urban growth in the vicinity of the City of Whitefish because although the Whitefish City-County Growth Policy Future Land Use Map designates the property as Rural and the proposed zoning is more compatible with the Rural Residential land use designation, the subject property is less than 10 acres in size, the property is not agricultural or silvicultural land, adjacent properties are designated as Rural Residential, and no comments were received from the City of Whitefish to indicate concern.

d. The character of the district(s) and its peculiar suitability for particular uses;

The character of the district and its peculiar suitability for particular uses can best be addressed using the “three part test” established for spot zoning by legal precedent in the case of *Little v. Board of County Commissioners*. Spot zoning is described as a provision of a general plan (i.e. Growth Policy, Neighborhood Plan or Zoning District) creating a zone which benefits one or more parcels that is different from the uses allowed on surrounding properties in the area. Below is a review of the three-part test in relation to this application and the character of the district and its peculiar suitability for particular uses.

i. *The zoning allows a use that differs significantly from the prevailing use in the area.*

The intent of the existing ‘SAG-10 Suburban Agricultural’ zone is to provide and preserve smaller agricultural functions and to provide a buffer between urban and unlimited agricultural uses. The purpose of the proposed ‘R-2.5 Rural Residential’ zone is to provide transition areas adjacent to and between higher density residential and lower density suburban agricultural zones.

The subject property is located adjacent to properties similarly zoned SAG-10 as well as properties zoned R-2.5. The proposed amendment would expand the existing corridor of R-2.5 zoning. As mentioned previously in the report, the permitted and conditional uses within the existing and proposed zones are similar in nature. The main difference between the existing and proposed zoning is the minimum lot area, which would be reduced from 10 acres to 2.5

acres. A majority of the surrounding properties are utilized for single-family residential. The proposed zoning map amendment, if approved, would allow for uses that exist on the surrounding rural residential properties and that are similar to uses allowed under the existing suburban agricultural zoning. It therefore does not appear that the zone change would allow uses that differ significantly from the prevailing uses in the area.

ii. ***The zoning applies to a small area or benefits a small number of separate landowners.***

The proposed zoning map amendment would apply to one property, which is 5.6 acres in size, for the benefit of one landowner.

Using standard Arc GIS software, staff determined the subject property is located within a SAG-10 zoning use district approximately 1,266 acres in size. The subject property is 5.66 acres or 0.5% of the existing SAG-10 zoning use district. Adjacent to the property is an R-2.5 zoning use district which is approximately 168 acres. Although the zoning would apply to a relatively small area to the benefit of one landowner, the proposed zoning map amendment would expand the existing R-2.5 zoning use district.

iii. ***The zoning is designed to benefit only one or a few landowners at the expense of the surrounding landowners or the general public and, thus, is in the nature of special legislation.***

As stated above, the proposed zoning map amendment would occur on one tract of land totaling 5.6 acres. The proposed R-2.5 zone would allow for residential lots with a minimum lot size of 2.5 acres, thus the zone change has the potential to increase density through subsequent subdivision in the future. However, the zone change from SAG-10 to R-2.5 is not a substantial change in use from surrounding area and would therefore not be at the expense of the surrounding landowners. Many of the permitted and conditional uses within the proposed zone are allowed within the existing zone. Additionally, the adjacent properties to the south and west are zoned R-2.5.

In summary, all three criteria must be met for the application to potentially be considered spot zoning. The proposed zoning map amendment does not appear to be at risk of spot zoning, as it does not appear to meet all three of the criteria.

Finding #9: The proposed zoning map amendment appears suitable for the character of the district and does not appear to constitute spot zoning because the proposed R-2.5 zoning designation would be a continuation of existing R-2.5 zoning located adjacent to the subject property and would allow for the same uses that exist on surrounding properties.

e. **Conserving the value of buildings and encouraging the most appropriate use of land throughout the jurisdictional area.**

The subject property is located within the Rural Whitefish Zoning District and is surrounded by rural residential and suburban agricultural zoning. Adjacent properties to the north and east are similarly zoned SAG-10 and adjacent properties to the south and west are zoned R-2.5. Within a quarter mile of the property is R-1 and AG-20 zoning. Previous sections of this report have discussed the differences

between permitted and conditional uses in the existing SAG-10 zoning and the proposed R-2.5 zoning. Conserving the value of buildings throughout the jurisdictional area is a function of allowing land uses that are appropriate and reasonable. Many of the land uses listed as permitted uses in the proposed R-2.5 zone exist in the vicinity of the subject property, such as single-family residential. The permitted and conditional uses would likely not impact the value of buildings and would be appropriate land uses throughout the area of the proposed zoning map amendment because they already exist in the area.

Finding #10: The proposed zoning map amendment appears to conserve the value of buildings and encourage the most appropriate use of land in this particular location because the proposed zoning designation allows for similar uses to the existing SAG-10 zoning and would expand upon the existing R-2.5 zoning in the area.

4. Whether the proposed map amendment will make the zoning regulations, as nearly as possible, compatible with the zoning ordinances of nearby municipalities.

The City of Whitefish is the nearest municipality to the subject property and the city limits are located approximately a half-mile to the northwest and over a mile to the east of the property. The nearest City of Whitefish zoning to the subject property is ‘WCR Country Residential’. The City WCR zone has a 2.5 acre minimum lot area which is the same as the proposed County R-2.5 zone. The permitted and conditional uses within the WCR zone are similar to those within the R-2.5 zone, although fewer uses are allowed within the WCR zone. The main difference between the two zones is the WCR zone lists ‘Accessory apartments’ as a conditional use, whereas apartments are not allowed within the R-2.5 zone. Since the nearest City zoning designation is most similar to the County’s R-2.5 zoning designation, it appears the proposed zoning map amendment would be compatible with the zoning ordinances of the City of Whitefish. The City of Whitefish Planning Department did not provide comment on this proposal.

Finding #11: The proposed zoning map amendment appears to be, as nearly as possible, compatible with the zoning ordinance of the City of Whitefish because the proposed zone would be compatible with the City WCR zone, which is the nearest City zoning designation, and no comments were received from the City of Whitefish.

V. SUMMARY OF FINDINGS

1. The proposed zoning map amendment generally complies with the Flathead County Growth Policy because, although the Designated Land Uses Map identifies the subject property as Suburban Agricultural, the R-2.5 zone would allow for single-family dwellings, manufactured homes, and accessory dwelling units which has the potential to increase affordable housing options, the property is located east of the City of Whitefish and adjacent to existing R-2.5 zoning, the property does not contain surface waters or floodplain, and impacts on wildlife would likely be minimal since surrounding properties are currently used for residential purposes.
2. The proposed zoning map amendment would secure safety from fire and other dangers because the property is located approximately 5.2 miles from the nearest fire station, fire hazards resulting from the property’s location in the WUI could be mitigated if the property

is further subdivided, the property is accessed from Morrison Road which can accommodate emergency vehicles, and the property is not located within the Special Flood Hazard Area.

3. The proposed zoning amendment would not have a negative impact on public health, safety and general welfare because the property is served by the Whitefish Fire Department and the Flathead County Sheriff's Office and future development would be similar or compatible to uses already existing in the area.
4. The proposed zoning map amendment would facilitate the adequate provision of transportation because access to the subject property currently exists via Morrison Road and the proposal has the potential to generate an additional 10 average daily trips through future subdivision of the property.
5. The proposed zoning map amendment would facilitate the adequate provision of water and sewer services, schools and parks because future subdivision of the property would require review through the Flathead City-County Health Department and the Montana Department of Environmental Quality, the proposal would generate minimal school age children, parkland dedication would be considered during subdivision review, and there are numerous parks, natural areas, and recreational opportunities in the vicinity of the subject property.
6. The proposed zoning map amendment would provide adequate light and air to the subject property because future development would be required to meet the bulk and dimensional requirements of the R-2.5 designation.
7. The proposed zoning map amendment would have a minimal impact on motorized and non-motorized transportation systems because Morrison Road provides legal and physical access to the subject property, the proposal has the potential to generate an additional 10 average daily trips through future subdivision, the Flathead County Road Department had no comment regarding the proposal, and the change will not have an impact on bicycle and pedestrian trails in the County.
8. The proposed zoning map amendment appears to be partially compatible with urban growth in the vicinity of the City of Whitefish because although the Whitefish City-County Growth Policy Future Land Use Map designates the property as Rural and the proposed zoning is more compatible with the Rural Residential land use designation, the subject property is less than 10 acres in size, the property is not agricultural or silvicultural land, adjacent properties are designated as Rural Residential, and no comments were received from the City of Whitefish to indicate concern.
9. The proposed zoning map amendment appears suitable for the character of the district and does not appear to constitute spot zoning because the proposed R-2.5 zoning designation would be a continuation of existing R-2.5 zoning located adjacent to the subject property and would allow for the same uses that exist on surrounding properties.
10. The proposed zoning map amendment appears to conserve the value of buildings and encourage the most appropriate use of land in this particular location because the proposed zoning designation allows for similar uses to the existing SAG-10 zoning and would expand upon the existing R-2.5 zoning in the area.

11. The proposed zoning map amendment appears to be, as nearly as possible, compatible with the zoning ordinance of the City of Whitefish because the proposed zone would be compatible with the City WCR zone, which is the nearest City zoning designation, and no comments were received from the City of Whitefish.

VI. CONCLUSION

Per Section 2.08.020(4) of the Flathead County Zoning Regulations (FCZR), a review and evaluation by the staff of the Planning Board comparing the proposed zoning map amendment to the criteria for evaluation of amendment requests found in Section 2.08.040 FCZR has found the proposal to generally comply with most of the review criteria, based upon the draft Findings of Fact presented above. Section 2.08.040 does not require compliance with all criteria for evaluation, only that the Planning Board and County Commissioners should be guided by the criteria.

Planner: EA